

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4939 (as passed by the House)
House Bill 4940 (Substitute H-2 as passed by the House)
House Bill 4941 (Substitute H-1 as passed by the House)
House Bill 4942 (Substitute H-1 as passed by the House)
House Bill 4943 (Substitute H-1 as passed by the House)
House Bill 4944 (Substitute H-2 as passed by the House)
House Bill 4945 (Substitute H-1 as passed by the House)
House Bill 4946 (Substitute H-1 as passed by the House)
House Bill 4947 (Substitute H-2 as passed by the House)
House Bill 4948 (Substitute H-2 as passed by the House)
House Bill 4949 (Substitute H-1 as passed by the House)
House Bill 4950 (Substitute H-1 as passed by the House)
House Bill 4951 (Substitute H-1 as passed by the House)
House Bill 4952 (Substitute H-1 as passed by the House)
House Bill 4953 (Substitute H-1 as passed by the House)
House Bill 4954 (Substitute H-1 as passed by the House)
House Bill 4955 (Substitute H-2 as passed by the House)
House Bill 4956 (Substitute H-2 as passed by the House)
House Bill 4957 (Substitute H-2 as passed by the House)
Sponsor: Representative Thomas M. George (H.B. 4939 & 4940)
Representative Gerald Van Woerkom (H.B. 4941)
Representative LaMar Lemmons (H.B. 4942)
Representative Mary Ann Middaugh (H.B. 4943)
Representative Jerry O. Kooiman (H.B. 4944)
Representative Alan Sanborn (H.B. 4945)
Representative Patricia Birkholz (H.B. 4946)
Representative Michael Bishop (H.B. 4947)
Representative Steve Vear (H.B. 4948)
Representative Joseph Rivet (H.B. 4949)
Representative Paula K. Zelenko (H.B. 4950)
Representative Mickey Mortimer (H.B. 4951)
Representative James Koetje (H.B. 4952)
Representative Judson Gilbert III (H.B. 4953)
Representative Bill McConico (H.B. 4954)
Representative Douglas Bovin (H.B. 4955)
Representative Susan Tabor (H.B. 4956)
Representative Samuel Buzz Thomas (H.B. 4957)

House Committee: Commerce

Senate Committee: Government Operations

Date Completed: 7-10-01

CONTENT

The bills would create the Department of History, Arts, and Libraries, and provide for the transfer of certain powers and duties from various departments and executive agencies to the new Department, including the transfer of the Library of Michigan from the Legislature and Legislative Council; the Michigan

Historical Commission from the Secretary of State; and the Mackinac State Park Commission from the Department of Natural Resources. The bills also would add members appointed by the Senate Majority Leader and the Speaker of the House to several boards and commissions.

House Bills 4939 and 4942 (H-1) through 4957 (H-2) are tie-barred to House Bill 4941, which would create the new Department. House Bill 4941 (H-1) is tie-barred to House Bill 4940, which would transfer the State Library. Following is a detailed description of each bill.

House Bill 4939

The bill would amend the Management and Budget Act to eliminate a provision that requires the Legislative Council to manage and operate the Michigan Library and Historical Center. The bill also would require the Department of Management and Budget (DMB) to follow certain public notice procedures regarding surplus land.

Currently, under the Act, the DMB must issue directives to provide for the disposition of facilities and lands that are considered surplus. The Act requires the DMB to include a "public notice component" in its directive. The bill would delete this provision, and instead require the DMB, within 30 days after determining that a parcel of State property was considered surplus, to give public notice of its determination. The notice would have to be by publication in a newspaper of general circulation in the municipality or municipalities in which the property was located, and also by written notice to the county and each city, village, or township in which the property was located, as well as each city, village, or township that had a border within 10 miles of the property. The notice would have to contain the common address of the property and a description of it in relation to highways, streets, streams, or other prominent landmarks, a statement of the fair market value, if known, and a description of the proposed use for the property by the prospective purchaser, if known. The notice would have to contain an address and telephone number of the DMB, where people could submit questions or comments regarding the Department's determination that the property was considered surplus.

House Bill 4940 (H-2)

The bill would amend the Library of Michigan Act to do the following:

-- Transfer the Library of Michigan from the

Legislative Council to the Department of History, Arts, and Libraries (DHAL).

- Revise the membership of the Library's board of trustees.
- Specify that the Governor (instead of the Council), in consultation with the board, would appoint a State Librarian, who would serve at the pleasure of the Governor (instead of the Council).
- Require the State Librarian to report each year to the Governor (instead of the Council).
- Provide that full-time equated positions of the library on the bill's effective date would be transferred to the DHAL in accordance with the Department of Civil Service rules, and would be assumed into the classified service.

The bill would eliminate from the current 15-member Library board the Legislative Council Administrator, a librarian from a State agency library appointed by the Governor, and one member who is a librarian from a public library; the Director of the Department or the director's designee would be included on the new 13-member board. Further, the board currently includes four legislators appointed by the Council, with one from the majority party and one from the minority party. The bill specifies that the Senate Majority Leader, the Speaker of the House, the Senate Minority Leader, and the House Minority Leader each would appoint one member.

The bill provides that the DHAL, in consultation with the board, could promulgate rules related to the operations of the library.

The Council would have to maintain a website containing information, documents, and other data generated by the Legislature or a Legislative Council agency. The Library would have to provide copies to the Council of any documents or information in the possession of the Library, requested by the Council, that would assist it in carrying out its responsibilities.

Currently, the board must make budget recommendations to the Council. The bill specifies that recommendations regarding the Library budget, as well as proposed rules governing Library operations, would have to be made to the Department.

House Bill 4941 (H-1)

The bill would create the "History, Arts, and Library Act" to establish the Department of History, Arts, and Libraries. The Department would have to carry out the process, duties, functions, and responsibilities as provided in the Act and as otherwise provided by law. The Department would be headed by a director, who would be appointed by and serve at the pleasure of the Governor.

House Bill 4942 (H-1)

The bill would amend the District Library Establishment Act to replace references in the Act to the Legislative Council with references to the Department of History, Arts, and Libraries.

House Bill 4943 (H-1)

The bill would amend the State Aid to Public Libraries Act to replace references in the Act to the "state board" with references to the Department of History, Arts, and Libraries. (Currently, under the Act, "state board" means the Legislative Council.)

Under the Act, the governing board of a cooperative library is required to provide certain services to member libraries within the cooperative library's area. The services are subject to standards approved by the State board. The bill provides that the services would be subject to approval by the Department, in consultation with the State Librarian.

Currently, the Act states that there is appropriated each year from the State's General Fund a sum necessary to fulfill the requirements of the Act. The bill specifies that it would be the intent of the Legislature that money available under this provision be used solely for assistance to public libraries or cooperative libraries and not for the administrative expenses of the Library of Michigan or the DHAL.

House Bill 4944 (H-2)

The bill would amend the Michigan Historical Commission Act to transfer the Commission from the Secretary of State to the proposed Department; revise the membership of the Commission board; and give the DHAL certain powers and duties presently assigned to the Secretary of State.

Currently, the board consists of six members appointed by the Governor with the advice and consent of the Senate, and the Governor ex officio. The bill provides, instead, that the board would consist of one member appointed by the Senate Majority Leader, one member appointed by the Speaker of the House, and seven members appointed by the Governor with the advice and consent of the Senate. One of the Governor's appointees would have to be a representative of the Historical Society of Michigan, chosen from a list of three people nominated by the Society. The DHAL Director also would serve on the board ex officio. The Governor's appointees would serve six-year terms (as they now do) and the members appointed by the Senate Majority Leader and the Speaker of the House would serve a two-year term coinciding with the term of office of State Representative.

Under the Act, a record obtained by the Secretary of State from a person under a written agreement specifying that the record is for retention in the State archives, but is confidential, must be kept confidential for a period stated in the agreement, which may not exceed 20 years or until the person's death, whichever occurs first. In addition, a record obtained by the Secretary of State from a governmental agency that maintained the material on a confidential basis must be kept confidential pursuant to the terms of a written agreement. Under the bill, these provisions would apply to records obtained by the Secretary of State before the bill's effective date, or by the DHAL after that date.

Currently, money collected from the sale of Michigan history and books, maps, articles, calendars, reprints, and related items must be credited to the Michigan Heritage Publications Fund, which is used to pay for the printing, distribution, and promotion costs of Michigan history and the related materials. Further, money collected from the sale of items in the Michigan Historical Center must be deposited in the Museum Operations Fund, which may be used for various reasons prescribed in the Act. The bill provides that the State Treasurer would have to direct the investment of the money in both Funds, and credit to each Fund interest and earnings investments.

House Bill 4945 (H-1)

The bill would amend the Local Historic

Districts Act to replace references in the Act to the Bureau of History of the Michigan Department of State with references to the proposed Department of History, Arts, and Libraries.

House Bill 4946 (H-1)

The bill would amend the downtown development authority Act to require an authority to refer all proposed changes to the exterior of sites listed on the State Registrar of Historic Sites and the National Register of Historic Places to the applicable historic district commission and the proposed Department of History, Arts, and Libraries. Currently all such proposed changes must be referred to the Secretary of State and the applicable historic district commission.

House Bills 4947 (H-2) & 4948 (H-2)

House Bills 4947 (H-2) and 4948 (H-2) would amend the Single Business Tax Act and the Income Tax Act, respectively, to delete the requirement that a rehabilitation plan be certified before 2003, in order for a qualified taxpayer to receive a tax credit for the rehabilitation of a historic resource. The bills also would transfer various responsibilities from the Department of State to the proposed Department of History, Arts, and Libraries.

The Acts allow a qualified taxpayer to claim a credit against either or both taxes for qualified expenditures made for the rehabilitation of a historic resource; the credit is equal to 25% of the qualified expenditures. Currently, a qualified taxpayer must have a rehabilitation plan certified by the Michigan Historical Center after December 31, 1998, and before January 1, 2003, in order to claim a credit. Under the bills, a plan would not have to be certified before January 1, 2003.

Under the Acts, if the credit exceeds the taxpayer's tax liability for a tax year, the excess portion may be carried forward for 10 years or until used up, whichever occurs first. The Acts specify that a carryforward may be claimed in tax years that begin after December 31, 2002, for a credit based on a rehabilitation plan certified before January 1, 2003. The bills would delete that provision (but retain the provision allowing a carryforward).

The Acts' definitions of "qualified expenditures" state that expenditures made after December 31, 2002, and not more than five years after the certification of the rehabilitation plan are qualified expenditures only if the plan received certification by the Michigan Historical Center before January 1, 2003. The bill would delete that language.

Currently, the Department of State, through the Michigan Historical Center, may impose a fee to cover the administrative cost of implementing the historic preservation credit program, and must report certain information to the Legislature each year. The bill would refer to the DHAL, instead of the Department of State.

The Acts required the Department of State, by July 19, 1999, to submit rules to implement the historic preservation credit provisions. The bills, instead, would require the DHAL to promulgate implementing rules.

House Bill 4949 (H-1)

The bill would amend the Management and Budget Act to transfer from the Secretary of State to the DHAL the following responsibilities:

- Reviewing and approving proposed schedules for the retention and disposal of records maintained by State agencies.
- Determining whether records listed on a schedule have archival value, and disapproving or requiring modification of a schedule that proposes to destroy such a record.
- Maintaining custody of records transferred to the Department.
- Inspecting or inventorying records in the custody of a State agency.
- Initiating legal action to recover records that have archival value.

In addition, the Act requires the Department of Management and Budget periodically to give the Department of State listings of all records in the custody of the Records Center that are due for disposal, before releasing them for destruction. Within 30 days, the Department of State must report to the Records Center regarding each list submitted, and may disapprove the destruction of any or all records listed. Any record that is considered to have potential archival value by

the Department of State must be transferred to it. The bill would replace these references to the Department of State with references to the DHAL.

House Bill 4950 (H-1)

The Records Media Act provides that, pursuant to the Administrative Procedures Act, the Department of State and the DMB must jointly promulgate rules that govern the creation, processing, indexing, storage, retrieval, durability, and inspection of reproductions by a governmental entity or official. The bill would refer to the DHAL, instead of the Department of State.

House Bill 4951 (H-1)

The bill would amend Public Act 69 of 1976, which provides for State historic sites, to transfer functions from the Secretary of State to the proposed Department of History, Arts, and Libraries.

Specifically, the bill would permit the DHAL, instead of the Secretary of State, to do the following:

- Acquire and maintain historic sites for use by the public.
- Take land or rights to land in the name of the State and for the benefit of the public by purchase or gift.
- Enter into contracts for the purchase of historic sites listed on the State Register of Historic Sites, and accept a deed upon fulfillment of the terms and conditions in a contract.

The bill also would permit the DHAL, instead of the Secretary of State, to receive and hold in trust for the State a grant or devise of land or rights in land, and a gift or bequest of money or other nonhistorical personal property made for the purposes of the Act. Currently, if money or personal property is received, it must be turned over to the State Treasurer who, upon approval of the Secretary of State, must preserve and invest the funds in securities in which banks are permitted to invest. The bill would require the State Treasurer, instead, to preserve and invest all money and property received as provided by law.

Currently, invested funds must be used and spent under the direction of the Secretary of State to carry out the purposes of the Act.

Under the bill, the DHAL would direct the use and expenditure of invested funds.

The Act permits any municipality to transfer the care and control of a historic site or property suitable as a historic site to the Secretary of State. Under the bill, a municipality could transfer a site or property to the DHAL.

House Bill 4952 (H-1)

Under the Freedom of Information Act, a public body may exempt from disclosure information that would reveal the exact location of archaeological sites. The Act also permits the Secretary of State to promulgate rules providing for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites. The bill would permit the DHAL, instead of the Secretary of State, to promulgate these rules.

House Bill 4953 (H-1)

The bill would amend Part 761 (Aboriginal Records and Antiquities and Abandoned Property) of the Natural Resources and Environmental Protection Act (NREPA), to refer to the Department of History, Arts, and Libraries, instead of the Secretary of State or the Department of State, in provisions that do the following:

- Specify that abandoned property of historical or recreational value found on the State-owned bottomlands of the Great Lakes, belongs to the State with administration and protection jointly vested in the Department of Natural Resources (DNR) and the Secretary of State.
- Create the underwater salvage and preserve committee to provide advice to the DNR and the Secretary of State under Part 761.
- Provide for the Secretary of State to appoint two individuals to that committee.
- Require the committee chairperson to alternate between the representatives of the DNR and the Department of State.
- Provide that a deed given by the State for tax-reverted land must reserve to the State a property right in aboriginal antiquities, and the DNR with the approval of the Secretary of State may waive that reservation.
- Prohibit a person from exploring or excavating an aboriginal remain covered by

Part 761 upon State-owned land, except under a permit issued by the DNR with the approval of the Secretary of State.

- Prohibit a person from recovering, altering, or destroying abandoned property that is on, under, or over Great Lakes bottomlands, unless the person has a permit issued jointly by the DNR and the Secretary of State.
- Require a person who recovers abandoned property without a necessary permit to transmit the property to the Secretary of State.
- Require a person who recovers abandoned property to file a report with the Secretary of State or the DNR and make the property available for inspection; and require the Secretary of State to release the property to the person upon determining that it does not have historical value.
- Require the DNR and the Secretary of State to approve or disapprove an application for a permit to recover abandoned property.
- Authorize the DNR or the Secretary of State to suspend or revoke a permit if the permit holder is not in compliance with Part 761, a rule, or a permit condition.
- Provide that money in the Underwater Preserve Fund may be appropriated to the Secretary of State for the development of maritime archaeology.

Under the Act, the underwater salvage and preserve committee must consist of nine members, including one individual appointed by the Director of the Department of Consumer and Industry Services (DCIS) and four appointed by the Governor with the advice and consent of the Senate from the general public. The bill would require the committee to include five members appointed by the Governor, and would delete the member appointed by the DCIS Director.

House Bill 4954 (H-1)

Under the Revised Judicature Act, if a public officer reproduces court records kept by him or her pursuant to the Records Media Act, the officer may offer the original records to the Department of State for placement in the State archives. If the Department accepts the offer within 30 days, the court must transfer the records to the Department. The bill would refer to the DHAL, instead of the Department of State.

House Bill 4955 (H-2)

The bill would amend the Michigan Iron Industry Museum Advisory Board Act to provide that the advisory board is created within the Department of History, Arts, and Libraries, instead of the Department of State, and to add two members to the board.

Currently, the advisory board consists of nine members appointed by the Governor, who serve four-year terms. Under the bill, the board also would include one member appointed by the Speaker of the House of Representatives and one appointed by the Senate Majority Leader. Those two members would hold office for a two-year term coinciding with the term of the office of State Representative. The bill also provides that not more than six (instead of five) board members could be of the same political party at any one time.

House Bill 4956 (H-2)

The bill would amend Part 765 (Mackinac Island State Park) of the NREPA to do the following:

- Transfer the Mackinac Island State Park Commission from the DNR to the Department of History, Arts, and Libraries.
- Add two members to the Commission.
- Revise responsibilities of the Commission and special police appointed for the island.
- Specify that the Commission would have the control and management of the site known as the Mill Creek Site.
- Provide that a person who violated a rule promulgated by the Commission would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$500.

Currently, the Commission consists of seven members appointed by the Governor, who serve six-year terms. Under the bill, the Commission also would include one member appointed by the Speaker of the House of Representatives and one appointed by the Senate Majority Leader. Those two members would hold office for a two-year term coinciding with the term of the office of State Representative. The bill also provides that not more than five (instead of four) members could be of the same political party at any one time.

The Act permits the Commission to lay out, manage, maintain the park; preserve the old fort; and promulgate and enforce rules necessary to implement Part 765. The bill provides, instead, that the Commission would have the exclusive right to lay out, manage, and maintain the park; preserve the old fort and other property held by the Commission on the bill's effective date or acquired by the Commission after that date; and promulgate and enforce rules necessary to implement the Commission's duties. The bill also would allow the Commission to employ a director, rather than a supervisor.

Under the Act, the supervisor may appoint special police who are responsible for executing the rules promulgated by the Commission for the care the preservation of the park and the property in and around the old fort. Under the bill, the special police would be responsible for enforcing the rules and the laws of the State related to the park. The bill would delete language under which the special police may make complaints against offenders before the district court of the judicial district that includes Mackinac Island, and the judges may hear and determine the complaints and sentence offenders, according to the procedures applicable in misdemeanor cases.

The Act authorizes the Commission to issue tax-anticipation bonds for the purpose of acquiring, building, improving, restoring, repairing, or furnishing its property and facilities. The bonds must be signed by the chairperson or vice-chairperson of the Commission and attested to by another Commission officer. The signature of either officer, but not both, could be affixed by facsimile. Under the bill, the bonds could be issued in electronic format only or, if issued in paper copies, would have to be signed as currently required. The signature of either officer, but not both, could be affixed by facsimile or electronically.

Currently, the Commission may promulgate and enforce rules for the care and preservation of the Mackinac Island State Park, and for the maintenance of good order, protection of property, and welfare of the park. The bill, instead, would authorize the Commission to promulgate and enforce rules for the care and preservation of the park and other property under the Commission's control, including the Mill Creek Site described in Public Act 285 of 1975 and the site formerly

occupied as a military post under the name of Fort Michilimackinac as described in Section 77701.

The bill also would allow the Commission to promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy to protect the land and property from depredations and to preserve them from molestation, spoilation, destruction, or any other improper use or occupancy.

The Act specifies that all rules promulgated by the Commission are effective within the whole territory covered by the park, and the Commission may promulgate and enforce rules relative to any part or portion of the park, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the City of Mackinac Island. Under the bill, the Commission also could promulgate and enforce such rules notwithstanding any other ordinance, regulation, or bylaw of Mackinac Township, Cheboygan County, or the Village of Mackinac City.

The bill would repeal Sections 76902 and 77703 of the Act, under which the violation of Commission rules is punishable as set forth in Public Act 80 of 1905. (That Act makes it a misdemeanor, punishable by imprisonment for not less than 10 or more than 60 days' imprisonment and/or a maximum fine of \$50, to engage in certain conduct involving public property under the control of the DMB or various other State departments.)

The bill also would repeal Part 775 of the NREPA, which authorized the Commission to acquire the "Clerk's Quarters--American Fur Company", and requires the Commission to maintain the property as a historic shrine (Sections 77501 and 77502).

House Bill 4957 (H-2)

The bill would amend the Michigan Freedom Trail Commission Act to transfer the Commission from the Department of State to the Department of History, Arts, and Libraries, and to add two members to the Commission.

Currently, the Commission consists of nine members appointed by the Governor, who serve four-year terms, plus three ex officio members (including the Secretary of State). Under the bill, the Commission also would include one member appointed by the Speaker

of the House of Representatives and one appointed by the Senate Majority Leader. Those two members would hold office for a two-year term coinciding with the term of the office of State Representative. The DHAL Director would replace the Secretary of State as an ex officio member.

Under the bill, seven (rather than six) appointed members could call a Commission meeting.

MCL 18.1114 et al. (H.B. 4939)
397.12 et al. (H.B. 4940)
397.172 et al. (H.B. 4942)
397.552 et al. (H.B. 4943)
399.1 et al. (H.B. 4944)
399.201a et al. (H.B. 4945)
125.1679 (H.B. 4946)
208.39c (H.B. 4947)
206.266 (H.B. 4948)
18.1284 et al. (H.B. 4949)
24.402 (H.B. 4950)
399.111 et al. (H.B. 4951)
15.243 (H.B. 4952)
324.76102 et al. (H.B. 4953)
600.2137 (H.B. 4954)
399.73 & 399.74 (H.B. 4955)
324.76501 et al. (H.B. 4956)
399.82 & 399.83 (H.B. 4957)

Legislative Analyst: G. Towne
S. Lowe

FISCAL IMPACT

The FY 2001-2002 appropriations for the new Department of History, Arts, and Libraries are contained in Senate Bill 291 and Senate Bill 234. The appropriations for the various agencies are as follows:

Senate Bill 291 (S-2)

Council for Arts and Cultural Affairs - \$25,956,600
Mackinac Island State Park Commission - \$3,407,700
Michigan Historical Program - \$8,303,300
Department Operations - \$708,600

Senate Bill 234 (General Government Appropriations Bill)

Library of Michigan - \$39,880,100

Included in the Department Operations line is \$279,900 in new General Fund dollars that will be needed to cover the cost of the newly created unclassified positions as well as other administrative costs. Additionally, in order to

meet the target agreement, the Arts and Cultural Grants line item has been reduced by (\$579,600) General Fund from the current year appropriation.

The FY 2001-02 appropriation for the Library of Michigan is contained in the General Government Conference Report (Senate Bill 234).

The transfer of the Library of Michigan from the Legislature also will have an impact on the Legislative Council. Funds appropriated to the Library of Michigan currently include shared costs for the legislative web site and property management costs for legislative facilities.

Fiscal Analyst: M. Tyszkiewicz
B. Bowerman
J. Runnels
J. Wortley
P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.